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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,131	06/29/2006	Claudio Bargheer	095309.56912US	1684
23911 7590 04/01/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER KOSANOVIC, HELENA	
			ART UNIT 3749	PAPER NUMBER
			MAIL DATE 04/01/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/553,131

**Applicant(s)**

BARGHEER ET AL.

**Examiner**

HELENA KOSANOVIC

**Art Unit**

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/13/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Gallup 5,524,439 in view of Wallman 6,048,024 and further in view of Bargheer 6,786,545.

Gallup teaches the invention as claimed:

Regarding claim 8, an air supply device (fig. 2) for an automotive seat comprising: an air duct 46, which is arranged at the delivery side of a fan 42 and has at least one air outlet opening (see paragraph below where the examiner labeled originally

not labeled elements with darkened arrow )provided in the upper region of the seat for supplying the head, shoulder and neck region of a seat occupant 12 with a flow of air, a heating element 34 arranged in the air duct between the fan and the air outlet opening, and at least one sensor 102 for detecting a parameter value as a function of which the flow of air emerging from the air outlet opening is controlled, wherein the sensor is arranged inside the air duct between (fig. 2) the air outlet opening and the heating element.

Regarding claim 9, wherein the sensor is designed as a temperature sensor(col. 8, ll. 55-57).

Regarding claim 10, wherein at least one of the heating element and the fan is controlled as a function of the parameter value detected by the sensor (fig. 2).

Regarding claim 11, wherein the sensor is arranged close to a grating element 16 (col. 5, ll. 30-32) positioned inside the air duct.

Regarding claim 12, wherein the grating element is arranged close to the air outlet opening of the air duct (fig. 2).

Regarding claims 1 and 13, about the sensor being integrated into the grating element, at the time the invention was made it would have been obvious matter of design choice to a person of ordinary skill in the art to have the sensor integrating into the grating instead of having the sensor behind the grating, because applicant has not disclosed that the claimed location provides an advantage is used for particular purpose or solves a stated problem. One of ordinary skill in the art would have expected the Applicant's invention to perform equally well with the sensor integrating into the grating

or not, because both locations performs the function of sensing the air temperature equally well.

**Gallup teaches the invention as discussed above but is silent about air supply device being located completely inside a backrest of the automotive seat.**

Wallman teaches air supply device 10, 61 located completely inside a backrest 3 of the automotive seat 1 (fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the Gallup air supply device with the Wallman air supply device located inside the seat, because the substitution of one known element for another would have yielded predictable results of moving the air from the fan to the duct opening.

Gallup in view of Wallmen teaches the invention as claimed but is silent that the part of the duct is height adjustable and that the sensor is located in that part of the duct.

Bargheer teaches that the vertically adjustable head support 32 (col. 2, ll. 46-47) wherein the outflow opening is also movable and appropriated part of the duct is also movable along with the head support (col. 3, ll. 14-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Gallup in view of Wallmen invention modified with the Bargheer adjustable had support with duct outflow in order to have optimum location of the air stream in area of the passenger neck and head (col. 3, ll. 21-22) and thus improve ventilation.

Regarding a sensor being located in the part of the duct that is adjustable in height, as discussed above, is considered to be a design choice. Applicant has not disclosed that the claimed location provides an advantage is used for particular purpose or solves a stated problem. One of ordinary skill in the art would have expected the Applicant's invention to perform equally well with the sensor being located in the duct at claimed adjustable part or not, because both locations performs the function of sensing the air temperature equally well.

2. Claim 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallup 5,524,439 in view of Wallman 6,048,024 and Bargheer 6,786,545 and further in view of Brand 4,491,270.

Gallup in view of Wallman and Bargheer teaches the invention as discussed above but is not specific about the sensor being borne by a socket part which can be inserted into a locating slot at an end of the air duct assigned to the air outlet opening.

Brand teaches the sensor 30 (fig. 2) having a socket part (see paragraph below where the examiner labeled originally not labeled elements with darkened arrow) located in a slot (see paragraph below where the examiner labeled originally not labeled elements with darkened arrow).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Gallup in view of Wallman and Bargheer invention modified with the Brand sensor socket located in the slot in order to attach the sensor to the duct.

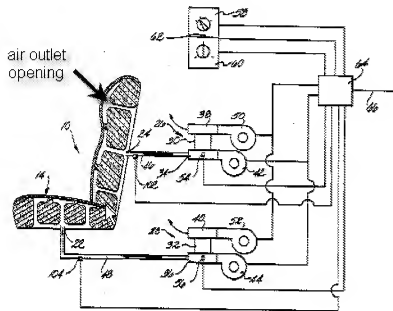
3. Claim 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallup 5,524,439 in view of Wallman 6,048,024 and Bargheer 6,786,545 and further in view of Japanese patent Jp-1099266U (as cited by applicant in IDS filed 6/6/2008).

Gallup in view of Wallman and Bargheer teaches the invention as discussed above but is silent about having the air outlet opening visible from outside the backrest.

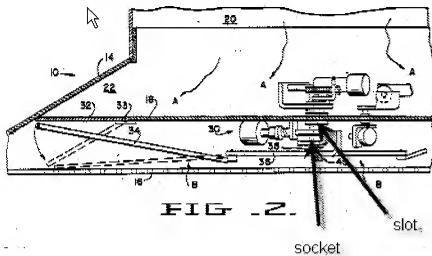
Japanese patent teaches the outlets 5, 6 visible from outside the backrest. (fig. 1)

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the Gallup in view of Wallman and Bargheer air outlet opening with the Japanese patent openings visible from outside the back seat, because the substitution of one known element for another would have yielded predictable results of moving the air through the opening.

4. Examiner labeled originally not labeled elements with darkened arrow.



(fig. 2 of Gallup)



(fig. 2 of Brand)



***Response to Arguments***

Applicant's arguments filed 9/22/08 have been fully considered but they are not persuasive.

Regarding Applicant's about newly amended claims the examiner applied neww reference to meet said limitations, as discussed above.

Therefore instant application is not patentably distinct over the prior art.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELENA KOSANOVIC whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. K./  
Examiner, Art Unit 3749  
032909

/Steven B. McAllister/  
Supervisory Patent Examiner, Art Unit 3749